

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Michael and Cynthia Schwartz)
 Ward 091, Block 071, Parcel 00016) Shelby County
 Residential Property)
 Tax Year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$80,000	\$285,000	\$365,000	\$91,250

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on February 15, 2006 in Memphis, Tennessee. In attendance at the hearing were Michael Schwartz, the appellant, and Shelby County Property Assessor’s representative Ron Palmer.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence located at 473 Walnut Point Cove in the Cordova section of Memphis, Tennessee. The taxpayer purchased subject property on July 18, 2000 for \$385,000. As will be discussed below, the one point both parties agree upon is that subject property has declined in value since the taxpayer’s purchase.

The taxpayer contended that subject property should be valued at \$310,000. In support of this position, the taxpayer placed primarily reliance on six comparable sales and one “comparable appraisal” summarized in collective exhibit #1.

The assessor contended that subject property should be valued at \$325,000. In support of this position, the assessor introduced a spreadsheet summarizing five comparable sales which Mr. Palmer maintained support a value of \$325,000.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$76 per square foot or \$316,600.

The administrative judge finds that the taxpayer’s comparable sales should initially receive greater weight because they are more recent. The administrative judge finds that

four of the five sales considered by Mr. Palmer occurred in 2002 and must be adjusted for time given a declining market.

Although the administrative judge finds that Mr. Schwartz's comparables should initially receive greatest weight, the administrative judge finds that his concluded value of \$74.41 was not derived by adjusting the comparables as required by generally accepted appraisal practices. The administrative judge finds that the Assessment Appeals Commission addressed the need to adjust comparable sales in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) as follows:

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

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The administrative judge finds that the procedure typically followed in the sales comparison approach has been explained in greater detail in one authoritative text as follows:

To apply the sales comparison approach, an appraiser follows a systematic procedure.

1. Research the competitive market for information on sales transactions, listings, and offers to purchase or sell involving properties that are similar to the subject property in terms of characteristics such as property type, date of sale, size, physical condition, location, and land use constraints. The goal is to find a set of comparable sales as similar as possible to the subject property.
2. Verify the information by confirming that the data obtained is factually accurate and that the transactions reflect arm's-length, market considerations. Verification may elicit additional information about the market.
3. Select relevant units of comparison (e.g., price per acre, price per square foot, price per front foot) and develop a comparative analysis for each unit. The goal here is to define and identify a unit of comparison that explains market behavior.
4. Look for differences between the comparable sale properties and the subject property using the elements of comparison. Then *adjust the price of each sale property to reflect how it differs from the subject property or eliminate that property as a comparable*. This step typically involves using the most comparable sale properties and then adjusting for any remaining differences.
5. Reconcile the various value indications produced from the analysis of comparables into a single value indication or a range of values.

[Emphasis supplied]

Appraisal Institute, *The Appraisal of Real Estate* at 422 (12th ed. 2001).

The administrative judge finds that after analyzing the various sales in the record, the preponderance of the evidence supports adoption of a value of \$76 per square foot or \$316,600 as of January 1, 2005, the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a).

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$80,000	\$236,600	\$316,600	\$79,150

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 22nd day of February, 2006.

MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Michael Schwartz
Tameaka Stanton-Riley, Appeals Manager